

MONTANA LEGISLATIVE HISTORY

Chapter 611 19 79

Bill H _____ S 220 Original bill & history C

H. Committee on Taxation

Hearing Date(s) Mar 29 ☒ C

Apr 11 ☒ C

_____ ☐ C

_____ ☐ C

Date Out Apr 11 ☒ C

S. Committee on Taxation

Hearing Date(s) Jan 31 ☒ C

Feb 12 ☒ C

_____ ☐ C

_____ ☐ C

Feb 12 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 *Senate* BILL NO. *220*
2 INTRODUCED BY *Turner*
3 BY REQUEST OF THE STATE TAX APPEAL BOARD
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
6 15-2-301, MCA, PROVIDING THAT THE STATE TAX APPEAL BOARD MAY
7 UTILIZE A HEARINGS OFFICER AND REQUIRING A RECORD OF A
8 HEARING INSTEAD OF A TRANSCRIPT."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 15-2-301, MCA, is amended to read:

12 "15-2-301. Appeal of county tax appeal board
13 decisions. (1) Any person or the department of revenue in
14 behalf of the state or any municipal corporation aggrieved
15 by the action of any county tax appeal board may appeal to
16 the state board by filing with the county tax appeal board a
17 notice of appeal and a duplicate thereof with the state
18 board within 20 calendar days after the receipt of the
19 decision of the county board, which notice shall specify the
20 action complained of and the reasons assigned for such
21 complaint. The county tax appeal boards shall mail their
22 decisions to the property assessment division of the
23 department. Receipt, for purposes of appeal, by the
24 department is when the county tax appeal board decision is
25 received by the property assessment division of the

1 department. The state board shall set such appeal for
2 hearing either in its office in the capital or such county
3 seat as the board considers advisable to facilitate the
4 performance of its duties or to accommodate parties in
5 interest and shall give to the appellant and to the county
6 board at least 15 calendar days' notice of the time and
7 place of such hearing.

8 (2) At the time of giving such notice, the state board
9 may require the county board to certify to it the minutes of
10 the proceedings resulting in such action and all testimony
11 taken in connection therewith. The state board may, in its
12 discretion, determine the appeal on such record if all
13 parties receive a copy of the transcript and are permitted
14 to submit additional sworn statements, or the state board
15 may hear further testimony. For the purpose of expediting
16 its work, the state board may refer any such appeal to one
17 of its members or to a hearings officer and the person so
18 designated shall have and exercise all the powers of the
19 board in conducting such hearings and shall, as soon as
20 possible thereafter, report the proceedings, together with a
21 ~~transcript--of--the--testimony--received~~ the record of the
22 hearing, to the board and the state board shall determine
23 such appeal on the record so made.

24 (3) On all hearings at county seats throughout the
25 state, the state board or the member ~~person~~ designated to

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1 conduct a hearing may employ the local court reporter or
2 other competent stenographer to take and transcribe the
3 testimony received and the cost thereof may be paid out of
4 the general appropriation for the board.

5 (4) In connection with any appeal under this section,
6 the state board shall not be bound by common law and
7 statutory rules of evidence or rules of discovery and may
8 affirm, reverse, or modify any decision. The decision of
9 the state tax appeal board shall be final and binding upon
10 all interested parties unless reversed or modified by
11 judicial review. To the extent this section is in conflict
12 with the Montana Administrative Procedure Act, this section
13 shall supersede that act. The state tax appeal board may not
14 amend or repeal any administrative rule of the department.
15 The state tax appeal board must give an administrative rule
16 full effect unless the board finds any such rule arbitrary,
17 capricious, or otherwise unlawful."

-End-

of mills and conditions for advertising the elections. Senator McCallum said perhaps SB235 could be amended to include the changes proposed in 234 and 236, and he introduced an amendment, see Exh. #2, attached, to change the municipality to "local government."

Mr. Nelson again testified saying he thought this bill might be a way to assist local governments in having some flexibility and yet give the people some voice on how far the local governments can go. He also gave some examples on General Fund millage variances, illustrating how varied are the needs of local governments as far as Gen. Fund mill levy requirements are concerned. Mr. Zinnecker referred to SB234 and stated he supported this as a means to level the needs of local governments. Mr. Mizner also testified on behalf of the bill and asked for clarification of the length of time of the millage, as it would make a large difference in the length of time the levy would be in effect; Sen. McCallum said this levy would run for one year.

Following this discussion Chairman Turnage asked Mr. Mizner to meet with Researcher Terry Cohea to work out some ways to amend the bills.

The hearing on Senator McCallum's bills was closed.

CONSIDERATION OF SENATE BILL 220: Sen. Turnage asked Vice Chairman Goodover to preside during the presentation of this bill. Sen. Turnage then said this bill is to address the problems currently facing the State Tax Appeals Board. The problem will increase in the future as the appeal notices and classification notices are sent out. He said presently all three members of the STAB sit on a hearing when an appeal arrives, most of which come out of local appeal boards. He said the volume of appeals is increasing and the board has a backlog of appeals. He introduced Helen Peterson of the STAB, Chairman, who further explained the proposed legislation. She said the Board had a total of 1,380 tax appeals and 717 of these cases had been heard since 1st of July and the Hearings Officer asked for in SB220 could assist with some of this backlog of appeals. County Tax Appeal Boards sit for limited time, the Chairman said, and often the appeals are not heard in time for the individual to appeal his taxes as appraisals are often late. Therefore, she believed a Hearings Officer could hear the appeal, send the findings to Helena for the STAB to hear, and they could then make their determination on the basis of that hearing. She also said it should be written into the bill that the Hearings Officer could be used only if the STAB had a backlog, and only if the CTAB could not hear the appeal.

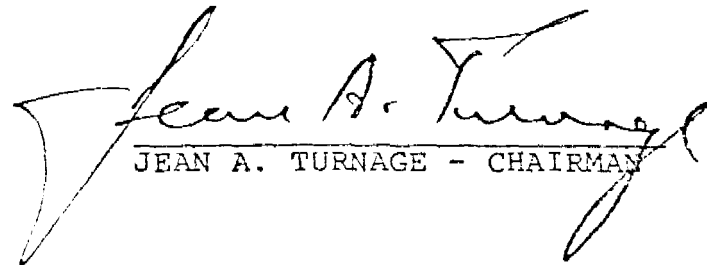
Following the presentation a number of questions were asked by the committee including possibilities of increasing length of time the CTAB's sit, possibility of another STAB in the other end of the state. Questions also raised about qualification of the Hearings Officer and number of backlog cases before that officer could be called in. Ms. Peterson stated only about 20% of the appeals that go to the CTAB go on to the STAB. She said the primary reason for this bill was that local governments often get in

trouble because reappraisals are late, consequently appeals are filed late and revenues then to that local government are also being held up for appeal decision.

Ms. Peterson said the problem is mainly in the larger counties, Yellowstone, Silver Bow and Missoula.

After the discussion Chairman Turnage asked Ms. Peterson if she and Researcher Cohea could get together and come up with some recommendations for qualifications of a Hearing Officer, also approximate costs of another STAB and increase in salaries of members of the County boards.

Meeting was then adjourned.


JEAN A. TURNAGE - CHAIRMAN

Date 1-31-79

ROLL CALL

SENATE TAXATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SEN. GOODOVER (Vice Chairman)	✓		
SEN. BROWN	✓		
SEN. HAGER	✓		
SEN. MANLEY	✓		
SEN. MANNING	✓		
SEN. McCOLLUM	✓		
SEN. NORMAN	✓		
SEN. ROSKIE	✓		
SEN. SEVERSON	✓		
SEN. TOWE			✓
SEN. WATT	✓		
CHAIRMAN TURNAGE	✓		

Each Day Attach to Minutes.

at again.

The committee then looked at the proffered amendments to SB220, see Exh. #2, attached. They discussed the bill, to authorize use of a Hearings Office for STAB, under certain conditions, and after discussion, agreed to move the bill.

Senator Towe Moved To Adopt the Amendments to SB220. His motion carried.

Senator Towe then Moved SB220, As Amended, Do Pass. "No" votes were cast by Senators Goodover, Manley, Roskie and Severson. Motion carried.

The dissenting voters mentioned their concern with the use of a Hearings Officer and the point was made that the backlog of appeals cases, prompting the writing of this bill, was the fault of the Department of Revenue who were late in sending out the reappraisal notices and County Tax Appeal Boards were no longer sitting to hear local appeals. The law states a taxpayer must be heard at a local level first, before his case goes to the STAB. It was the thought of the STAB and the bills's sponsor, Senator Turnage, that with a backlog of cases (of at least 500 cases as a result of the amendments,) the STAB could then use the services of the Hearings Officer for which the bill provides.

Senator Norman made the comment that if a taxpayer had a case for appeal, the CTAB must review the case (on the local level) or the taxpayer's case will be deemed valid.

The idea was then mentioned to have a committee bill drawn up which would insure appeals are heard locally first, and instructions for the CTAB's to attempt to hear such cases, if it involved change in the time the board sits.

Senator Towe made the motion that the Taxation Committee so instruct Researcher Terry Cohea to draft a bill that will indicate the committee's intent and their concerns, as stated above, be made apparent in that bill. The committee viewed the hearing of the tax appeals on the local level initially, to be of the utmost concern and so wished this bill to illustrate.

Following this motion, the meeting was adjourned.


JEAN A. TURNAGE - CHAIRMAN

Date FEB 12, 1979

ROLL CALL

SENATE TAXATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SEN. GOODOVER (Vice Chairman)	✓		
SEN. BROWN	✓		
SEN. HAGER	✓		
SEN. MANLEY	✓		
SEN. MANNING	✓		
SEN. MCCOLLUM	✓		
SEN. NORMAN	✓		
SEN. ROSKIE	✓		
SEN. SEVERSON	✓		
SEN. TOWE	✓		
SEN. WATT	✓		
CHAIRMAN TURNAGE	✓		

Each Day Attach to Minutes.

STANDING COMMITTEE REPORT

February 12, 1979

MR. President

We, your committee on Taxation

having had under consideration Senate Bill No. 220

Respectfully report as follows: That Senate Bill No. 220, introduced bill, be amended as follows:

1. Title, line 8.

Following: "TRANSCRIPT"

Insert: "UNDER CERTAIN CONDITIONS; PROVIDING A PERIOD OF EFFECTIVENESS"

2. Page 2, line 8.

Following: "(2)"

Insert: "(a)"

3. Page 2, line 17.

Following: "officer"

Insert: "under the conditions imposed in subsection (2)(b),"

4. Page 2, line 23.

Following: line 23

Insert: "(b) The board may not employ a hearings officer unless:

(i) it has over 500 appeals awaiting hearing; and

(ii) the hearing officer has legal training or experience in tax appraisal, classification, and administration."

END

(continued)

S. Page 3, line 17.

Following: line 17

Insert: "Section 2. Period of effectiveness. This act is effective
on passage and approval and remains in effect through June 30, 1981."

And, as so amended,
DO PASS

HOUSE TAXATION COMMITTEE

46th LEGISLATURE

The House Taxation Committee was called to order by Vice-Chairman Ernie Dassinger at 8:35 a.m., in Room 434, Capitol Building, on March 29, 1979. Rep. Dan Harrington and Rep. Harrison Fagg were absent; Chairman Herb Huennekens was excused. Staff attorney Randy McDonald was present.

Bills to be heard were Senate Bills 46, 220, 71 and 184.

Senator George Roskie, District #21, Great Falls, chief sponsor of SB 46 which was requested by the Code Commissioner, explained this is an important bill but it makes no substantive changes in the law. It takes out some archaic language and replaces it with more specific wording, wording which is more understandable and effective.

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Robert B. Pyfer, attorney for the Legislative Council, said he was available to answer any questions. He spoke briefly to the repealer. The bill repeals 17-2-203 which is a specific penalty section which is covered under the criminal code in a much more comprehensive fashion.

Senator Roskie closed and questions were asked by the committee.

Representative Reichert said page 5, line 12, pertains to a university student loan fund. What is the loan fund--she understood a student could not borrow from the state. Robert Pyfer said he is not completely familiar with that part as he hadn't drafted the bill. He said it sure reads like a loan set up for students, faculty and staff and it is unquestionably a state fund. Rep. Reichert requested he check to see how much this fund contains. Rep. Sivertsen said there is probably no money in the fund at the present time but if there are funds they may be loaned.

Rep. Johnson asked why the burning necessity of these code bills. Senator Roskie said it is intended to clarify the language and bring it up to date. Mr. Pyfer said they are not a burning question exactly but it would be improper for them to deal with matters that are substantive or controversial. He said the code commissioner is required to bring in a certain amount of legislation when conflicts are found in the law or unclear language. Rep. Williams said the main reason for the code bills is the fifteen hundred bills introduced every two years.

Senator Jean A. Turnage, District #13, Polson, chief sponsor of SB 220 which was introduced at the request of the State Tax Appeal Board, said this allows the State Board of Appeals to use a hearing officer if they have a backlog of over 500 appeals awaiting hearing. This hearing officer has to have legal training or experience in tax appraisal, classification and administration. Senator Turnage explained the tax appeal boards were mandated by the

SENATE BILL

220

1972 constitution. Each county has a local tax appeal board and if the taxpayer is unhappy with their decision he can appeal to the state board. This state board has three members who can meet in Helena or in the county of the appealing taxpayer. There is a tremendous backlog of cases because of the delay in appraisals coming down from the reclassification. Ideally all three of the state board should sit, although they can do it with two. This bill would provide a relief mechanism when the appeals add up to more than 500. A hearing officer would take testimony, write a proposed finding of fact and a decision. The decision would be reviewed by the state tax appeal board and approved or disapproved. He said he would be happy to answer any questions.

Rep. Williams asked if the hearing officers would be part time employees. Senator Turnage said they would. Rep. Underdal asked how they would be paid. The answer was \$40 an hour out of the general fund. Rep. Reichert mentioned the fiscal note was \$48,200 for this--might it take more. Senator Turnage said it could, depends on a number of things.

Rep. Hirsch asked if the hearing officer would only have the hearing and gather the facts. Rep. Turnage said he would also come to a suggested conclusion as Carl Davidson did in the Colstrip 3 and 4 hearing--he made a finding of fact and the Board of Natural Resources had to decide to adopt or reject it.

Rep. Sivertsen expressed a fear that the state tax appeal board could let the cases build up just so they could use the hearing officials all the time. Senator Turnage said the bill should be killed if they felt this would be the case. He said the records don't show that kind of abuse. Rep. Williams mentioned the tax appeal crunch happens during a 3 to 4 month period of the year with rather slack time at other times.

Senator Greg Jergeson, District #3, Chinook, chief sponsor of SB 71, said this is a bill that would provide for the establishing and continuation of courses provided by the Department of Revenue for its appraisers, and it would set up a system whereby they would be required to pass an examination. He said an appraiser would first have to become qualified as a residential appraiser before going into commercial or industrial appraising. He said there is some question about the qualifications of some appraisers and many voters are dissatisfied with the quality and equity of their work. It must be put in the law that they need to have a high professional proficiency. This is a simple but good bill. A statement of intent is attached so it won't become a full blown bureaucratic program. The bill is not to keep new people from entering this type of job. Appraisers would have a year to become certified.

Rep. Sivertsen agreed with Senator Jergeson on the need for this bill. He said much of the appeal crunch mentioned in the prior bill of Senator Turnage's is caused by improperly done appraisals.

There were no opponents and Senator Jergeson closed saying he was available for questions.

SENATE BILL 220

Representative Gilligan said their subcommittee did not recommend any action on this bill as they felt there would be committee members with more expertise than they had.

Representative Fagg said he opposed this bill. He said when he appeared before the Board he was glad there were three members on it. He felt the bill was not needed.

Representative Dozier said this wouldn't prevent you from taking your case before the full board.

Representative Lien said the county tax appeal board is made up of citizens with their own businesses to run--they only have so much time and the state tax appeal board could end up with more cases. This hearing officer could be a big help and could be more competent than the tax appeal board. The state tax appeal board would have to be backed up 500 cases before they could use the hearing officer.

Representative Fagg said he would not oppose the bill if the officer could not be used until they were 500 cases behind.

Representative Nortvedt wondered if taxpayers might be offended by having a hearing officer conduct their hearing, and might feel it a further encroachment on the local operation of the tax appeal board. He didn't see the need of the bill.

Representative Williams said the Department of Revenue uses a hearing officer. The record of the hearing has to go back to the state board and they make the determination. He felt it was a good move.

Representative Fabrega said they wouldn't be usurping the power of the county tax board. They will be used when the state tax appeal board is 500 cases behind.

Representative Reichert expressed concern about the monetary impact. What assurance do we have that it won't mushroom and be much more.

Rep. Fabrega said if they don't get the appropriation, they won't hire the hearing officer.

Rep. Lien said the hearing officer has the same power as an individual board member. He would hear the appeals and decide on the issue. You can insist on a hearing of the full board and then all three have to sit and listen to you. He moved the bill be concurred in.

Rep. Reichert said it is very important to have an avenue of appeal when you think you are overtaxed. This might be the most valuable money we spend.

Chairman Huennekens asked for a voice vote on the motion and it carried with Reps. Nortvedt, Burnett and Williams voting no. Rep. Williams will carry the bill. SB 220 receives a committee recommendation of BE CONCURRED IN.

SENATE BILL NO. 220

INTRODUCED BY TURNAGE

BY REQUEST OF THE STATE TAX APPEAL BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 15-2-301, MCA, PROVIDING THAT THE STATE TAX APPEAL BOARD MAY UTILIZE A HEARINGS OFFICER AND REQUIRING A RECORD OF A HEARING INSTEAD OF A TRANSCRIPT UNDER CERTAIN CONDITIONS; PROVIDING A PERIOD OF EFFECTIVENESS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-2-301, MCA, is amended to read:

"15-2-301. Appeal of county tax appeal board decisions. (1) Any person or the department of revenue in behalf of the state or any municipal corporation aggrieved by the action of any county tax appeal board may appeal to the state board by filing with the county tax appeal board a notice of appeal and a duplicate thereof with the state board within 20 calendar days after the receipt of the decision of the county board, which notice shall specify the action complained of and the reasons assigned for such complaint. The county tax appeal boards shall mail their decisions to the property assessment division of the department. Receipt, for purposes of appeal, by the department is when the county tax appeal board decision is

received by the property assessment division of the department. The state board shall set such appeal for hearing either in its office in the capital or such county seat as the board considers advisable to facilitate the performance of its duties or to accommodate parties in interest and shall give to the appellant and to the county board at least 15 calendar days' notice of the time and place of such hearing.

(2) (A) At the time of giving such notice, the state board may require the county board to certify to it the minutes of the proceedings resulting in such action and all testimony taken in connection therewith. The state board may, in its discretion, determine the appeal on such record if all parties receive a copy of the transcript and are permitted to submit additional sworn statements, or the state board may hear further testimony. For the purpose of expediting its work, the state board may refer any such appeal to one of its members or to a hearings officer UNDER THE CONDITIONS IMPOSED IN SUBSECTION (2)(B). and the person so designated shall have and exercise all the powers of the board in conducting such hearings and shall, as soon as possible thereafter, report the proceedings, together with a transcript--of--the--testimony--received the record of the hearing, to the board and the state board shall determine such appeal on the record so made.

1 (B) THE BOARD MAY NOT EMPLOY A HEARINGS OFFICER

2 UNLESS:

3 (I) IT HAS OVER 500 APPEALS AWAITING HEARING; AND

4 (II) THE HEARING OFFICER HAS LEGAL TRAINING OR

5 EXPERIENCE IN TAX APPRAISAL, CLASSIFICATION, AND

6 ADMINISTRATION.

7 (3) On all hearings at county seats throughout the
8 state, the state board or the member person designated to
9 conduct a hearing may employ the local court reporter or
10 other competent stenographer to take and transcribe the
11 testimony received and the cost thereof may be paid out of
12 the general appropriation for the board.

13 (4) In connection with any appeal under this section,
14 the state board shall not be bound by common law and
15 statutory rules of evidence or rules of discovery and may
16 affirm, reverse, or modify any decision. The decision of
17 the state tax appeal board shall be final and binding upon
18 all interested parties unless reversed or modified by
19 judicial review. To the extent this section is in conflict
20 with the Montana Administrative Procedure Act, this section
21 shall supersede that act. The state tax appeal board may not
22 amend or repeal any administrative rule of the department.
23 The state tax appeal board must give an administrative rule
24 full effect unless the board finds any such rule arbitrary,
25 capricious, or otherwise unlawful."

1 SECTION 2. PERIOD OF EFFECTIVENESS. THIS ACT IS

2 EFFECTIVE ON PASSAGE AND APPROVAL AND REMAINS IN EFFECT

3 THROUGH JUNE 30, 1981.

-End-

STATE OF MONTANA

REQUEST NO. 117-79

FISCAL NOTE

Form BD-15

compliance with a written request received January 26, 19 79, there is hereby submitted a Fiscal Note of SB 220 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill provides that the State Tax Appeal Board may use hearing officers and requires a record of a hearing instead of a transcript when members of this Board hear singly instead of in a group.

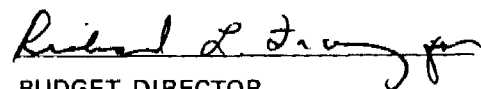
ASSUMPTIONS:

1. The extremely heavy hearing load of this Board will continue, at least through fiscal 1980 and may carry over into fiscal 1981.
2. Hearing officers would be needed for 400 hearing hours and an additional 400 hours in preparing decisions. Attorneys to serve as hearing officers can be obtained for \$40 an hour.

FISCAL IMPACT:

Attorneys, 800 hours @ \$40 per hour	\$32,000
Hearing reporters, 400 hours @ \$10 per hour	4,000
Transcripts, 4,000 pages @ \$2.55 per page	10,200
Travel for hearing officers	<u>2,000</u>
Additional cost of proposed legislation per year	<u>\$48,200</u>

The additional cost must be funded from the State General Fund.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/31/79